

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED REVISIONS TO THE MAINLINE)	
EXTENSION POLICY OF NORTHERN)	CASE NO. 97-468
KENTUCKY WATER SERVICE DISTRICT)	

O R D E R

Northern Kentucky Water Service District ("Northern Kentucky") has proposed revisions to its regulations on water main extensions. These proposed revisions would establish a common policy for main extensions within Northern Kentucky's Campbell County and Kenton County service territories and provide a new arrangement for financing such extensions. By this Order, the Commission approves these revisions with modifications.

Background

Northern Kentucky is the largest water district in Kentucky. It provides retail water service to approximately 58,965 customers in Campbell, Kenton, and Boone counties. It provides wholesale water service to Boone County Water District, Pendleton County Water District, and the cities of Bromley, Florence, Ludlow, Taylor Mill, Walton, and Winston Park. It was formed on January 1, 1997 from the merger of Kenton County Water District No. 1 and Campbell County Kentucky Water District.¹

¹ See Case No. 96-234, The Joint Application of Kenton County Water District No. 1 and Campbell County Kentucky Water District For Authority to Merge into Northern Kentucky Water Service District, and For Authority for the Combined District to Operate (August 22, 1996).

After its formation, Northern Kentucky issued a tariff that reflected certain differences in its predecessors' operating philosophies for the water district and required differing rules for its Campbell County and Kenton County customers.² Water main extensions is one area where differing philosophies are present.

To extend water mains in Kenton County, Northern Kentucky uses the assessment procedure set forth in KRS Chapter 74.³ Under this procedure, property owners whose real estate may be affected by a proposed water main extension are assessed the cost of the extension according to the benefits received from the extension. This procedure is lengthy and cumbersome. It requires the preparation of a detailed report which is the subject of public hearings and which the Kenton County Judge/Executive must review and approve. The final decision on assessments is then subject to judicial review.⁴

In Campbell County the water district and prospective applicants jointly bear the cost of the main extension.⁵ For extensions not involving a real estate development, Northern Kentucky contributes a portion of the main extension costs equal to 50 feet for each applicant for service. Applicants equally bear the remaining costs. Each additional

² Letter from Ronald J. Barrow, Assistant General Manager, Northern Kentucky Water Service District, to Carryn Lee, Rates and Tariffs Branch, Public Service Commission of Kentucky (June 30, 1997) (submission of combined tariffs).

³ See Northern Kentucky Water Service District Original Tariff Sheets No. 18 – 19.

⁴ For a complete description of the assessment process, see Daut v. Boone County Water District, Case No. 97-056 (October 9, 1997) at 3-4.

⁵ With the exception of the prohibition against refunds for connections made within a real estate development, Northern Kentucky's policy toward water main extensions in Campbell County is consistent with 807 KAR 5:066, Section 11 (2)(b)2 and (3).

customer whose service line is directly connected to the main extension within 5 years of its construction must contribute to the cost of the extension based on a recomputation of both Northern Kentucky's portion of the total cost and the original applicant's contribution. Northern Kentucky refunds to prior contributors the amount necessary to reduce their contribution to the currently calculated amount for each customer connected to the extension. Customer contributions end after 5 years. Northern Kentucky, however, must continue to refund to the main extension's contributors an amount equal to 50 feet of the extension's cost for each new customer connecting directly to the extension for another 5 years.

For real estate developments in Campbell County, Northern Kentucky follows a different procedure. An applicant for service is required to contribute the full cost of the main extension. For a period of 10 years following the main extension's construction, Northern Kentucky refunds to the applicant the cost of 50 feet of the main extension for each customer connecting to the extension outside of the real estate development. No refunds are made for connections made to the extension within the real estate development.

Proposed Regulations

Northern Kentucky proposes to adopt uniform regulations on water main extensions. Under its proposed regulations, three categories of main extensions would be established: "Other than Contractors, Developers and District Initiated Mainline Extensions"; "Contractors and Developers"; and "Mainline Extensions Initiated By the District."

"Other than Contractors" and "Contractors and Developers"

The "Other than Contractors" and "Contractor and Developers" categories represent, with two significant exceptions, the same policy that Northern Kentucky currently follows for water main extensions in Campbell County. For extensions made under these categories, Northern Kentucky's obligation to refund to contributors an amount equal to 50 feet of the water main extension's cost for each additional customer connecting to the extension ends after 5 years, not the current 10 years. Secondly, the water district's obligation to make any contribution or refund is conditioned upon funding availability.

Northern Kentucky argues that administrative concerns mandate a reduction in the refunding period. It asserts that its current costs to track refunds are already significant.⁶ Expanding the refund policy to Kenton County and the expected increase in construction activity, it further asserts, will make the administration of refunds unmanageable.

As to the provisions that condition extensions and refunds upon the availability of funding, Northern Kentucky argues that this condition is designed to allow the water district more control over when and how extensions are made and funds expended. Northern Kentucky officials noted that Northern Kentucky currently allocates only \$400,000 annually for water main extensions. A large main extension, they assert, would reek havoc on that budget.⁷

⁶ See Northern Kentucky's Response to the Commission's Order of March 13, 1998, Items 3h and 3; Letter of Ronald J. Barrow, Assistant Manager, Northern Kentucky Water District, to Helen Helton, Executive Director, Public Service Commission (June 4, 1998) (Refund Process for Resident Contracts).

⁷ Memorandum of May 1, 1998 Conference at 3.

The Commission finds that the reduction in the length of the refunding period is reasonable. The purpose of refunding is the equitable allocation of main extension costs. A refunding requirement ensures that customers who subsequently connect to a main extension financed in whole or in part by customer contributions bear their fair share of the extension costs. Without an adequate refunding period, potential applicants for water service are likely to refrain from contributing to a main extension and to wait until the end of the refunding period to connect to the main extension at no cost. The inequity resulting from such actions discourages others from contributing to main extensions.

Northern Kentucky's proposed regulations require all persons connecting to a water main extension within 5 years of its construction to equally bear the cost of the construction. It is unlikely that customers will delay until the end of the 5-year period before connecting for water service. Moreover, the northern Kentucky area's urban nature and rapid economic growth increases the likelihood that most connections to a water main extension will occur within 5 years of its construction.

The Commission further finds Northern Kentucky's proposal to condition water main extensions upon the availability of water district funds is unreasonable and should be stricken from the proposed policy. All public utilities have the obligation to make reasonable extensions of service. KRS 278.280(3). See also 64 Am.Jur. 2d. Public Utilities §43. The unavailability of funds does not render a proposed extension unreasonable per se. A water district must demonstrate that the proposed extension will have an adverse affect on its financial condition before being released from its obligation to extend service. In this instance, the water district concedes that any lack of funding can

be overcome through short-term borrowing without adversely affecting its financial condition.⁸

"District Initiated Extensions"

Northern Kentucky views "District Initiated Extensions" as a means of encouraging more equitable expansion of water service within its service territory. Under this approach, Northern Kentucky identifies possible water main extensions. Through direct mailings and public hearings, the water district then gauges public interest in the proposed main extension. If public interest⁹ is insufficient to use the "Other than Contractor" approach, then Northern Kentucky requires each applicant to contribute the cost of 100 feet of the proposed main extension and assumes the remaining cost of the main extension. Each additional customer connecting directly to the main extension during the 5 years following the construction must also contribute the cost of 100 feet of the main extension.¹⁰ If during these 5 years the required contribution amount exceeds that required were the extension made pursuant to the "Other than Contractor" method, Northern Kentucky will revert to that method to calculate the required contribution amount and to make refunds to prior contributors.

⁸ Memorandum of May 1, 1998 Conference at 3.

⁹ Northern Kentucky's proposed regulation refers to "homeowners." In its Response to the Commission's Order of March 13, 1998, Item 4(a), however, it stated that the proposed regulation would apply to "any customer that would hook up, regardless of customer classification."

¹⁰ Northern Kentucky's Response to the Commission's Order of March 13, 1998, Item 4(e).

As an example of the proposed policy's application, Northern Kentucky points to its current efforts to upgrade its service mains to meet growing customer demand. In many cases, rather than replace existing water mains with larger water mains, the same hydraulic results could be achieved by installing new lines along "unused corridors." These new lines bolster the existing lines without requiring the replacement of the existing lines. One benefit of using these "unused corridors" is that persons who previously did not have water service can now be served off these new mains.¹¹

According to Northern Kentucky, use of the "Other than Contractor" policy for these new extensions would result in stark inequities. Under the water district's current regulations, no customer contribution is required for utility-initiated extensions or upgrades. Persons located along the "unused corridors," therefore, would obtain water service at no cost. Those who lived the next street over, however, would still have to pay the full cost of the extension minus the water district's contribution of the cost of 50 feet of extension. The proposed regulation prevents such inequities by requiring all customers to pay for the cost equal to 100 feet of the water line.

Northern Kentucky states that the customer's required contribution of the cost of 100 feet of main extension is based upon its experience with Campbell County customers. It notes that most applicants for main extensions were unwilling to apply for a main extension if the required contribution exceeded \$3,000. Northern Kentucky estimates the cost of 100 feet of water main extension is approximately \$3,000.

¹¹ Memorandum of May 3, 1998 Conference at 2-3.

While the Commission agrees that "District-Initiated" extensions may allow for greater expansion of water service, the lack of any eligibility guidelines for these extensions is troubling. The proposed regulation, as currently drafted, places few limits on a water district's discretion to select proposed main extensions for this treatment. There is thus little protection against unreasonable discrimination in the selection of main extensions and the construction of uneconomic and costly main extensions that benefit few customers.

The Commission believes that Northern Kentucky should develop eligibility guidelines for the "District Initiated" treatment. At a minimum, these guidelines should be consistent with the water district's long range master plans and should identify the areas of its service territory that the water district intends to expand service in the next 5 years. These guidelines, moreover, should be filed with the Commission as part of Northern Kentucky's filed tariff.

The Commission further finds that, to enable the Commission to monitor "District Initiated" extensions, Northern Kentucky should be required to file annual reports regarding "District Initiated" extensions. Finally, the proposed regulation should be allowed to remain in effect for only 10 years. At the end of this period, the Commission can re-examine the operation of this regulation and determine if it should continue.

Despite the concerns noted above, the Commission finds that the proposed regulation concerning "District Initiated" extensions should be approved. The proposed regulation represents a worthwhile effort to expand water service in northern Kentucky. The water district may begin making extensions pursuant to this regulation as of its effective date. The Commission places Northern Kentucky on notice that, for any extension made

prior to the filing of its guidelines, the water district should be prepared to defend the economics of such extension and to demonstrate its consistency with the water district's long range plans.

CONCLUSION

IT IS THEREFORE ORDERED that:

1. Northern Kentucky's proposed tariff revisions, as modified herein, are approved effective the date of this Order.

2. Proposed Sheet No. 15, Section XIV-A, Paragraph 1, is modified to read:

1. The District shall determine the total cost for a proposed water main extension (exclusive of the meter connections) and the total length of the connection. The District shall pay that portion of the cost of the water main extension equal to 50 feet for each applicant for service. That part of the cost not covered by the District's portion shall be contributed equally by those applicants desiring service on the main extension. Each applicant will also be required to pay the District's approved "tap-on-fee" for a meter connection to the main extension.

3. Proposed Sheet No. 16, Section XIV-B, First Paragraph is modified to read:

An applicant desiring a water line extension to a proposed real estate subdivision will be required to pay the entire cost of the extension. It is the applicant's responsibility to notify the District prior to the start of construction so a cost for the extension can be determined and approved by the District. Each year, a refund period of five (5) years after the water main is placed in service, the utility shall refund to the applicant who paid for the extension a sum equal to the cost of fifty (50) feet of the extension installed by the developer, and not to extensions or laterals therefrom. It shall be the responsibility of the applicant who paid for the extension to notify the District on the form that will be provided with the original application papers of the customer's up-to-date address. Refunds will be sent to the address on record and if returned will be kept by the District until the District is notified of a current address. Total amount refunded shall not exceed the amount paid by the applicant.

4. Proposed Sheet No. 17, Section XIV-C, First Paragraph is modified to read:

Where the District determines that a water main extension is feasible and desirable under established criteria, the District shall determine if sufficient interest among the property owners along the proposed water main extension exists to use Section XIV-A. If there is insufficient interest among the property owners along the proposed water main extension exists to use Section XIV-A, the District shall use the following method. Each prospective customer desiring service from the proposed water line extension shall pay for the cost equal to 100 feet of the proposed water line extension.

For a period of five years after the water main is placed in-service, each additional customer directly connected to the extension and not to laterals and extensions thereto will be required to contribute the cost of 100 feet of the water line extension ("required contribution amount"). If during this period the required contribution amount exceeds that required were the extension made pursuant to Section XIV-A, then the District will calculate the required contribution amount in accordance with Section XIV-A and will make refunds to all contributors in accordance with Section XIV-A. Five years after the water main is placed in-service, no further contributions will be required and no refunds will be made.

5. Section XIV-C, as modified, shall remain in effect for a period of 10 years from the date of this Order. Before the end of this period, Northern Kentucky may apply for authorization to continue these extension policies.

6. Within 60 days of the date of this Order, Northern Kentucky shall file with the Commission as part of its filed tariff the criteria that will determine a proposed water main extension's eligibility for Section XIV-C treatment.

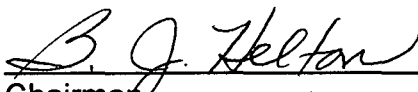
7. Beginning with the filing of its annual financial and statistical report for Calendar Year 1998, Northern Kentucky shall submit with its annual financial and statistical report to the Commission a report containing: a list of all water main extensions initiated under Section XIV-C during the year in question; the total cost of each of these main

extensions; the total amount of customer contributions for each main, the length of each main extension, and the number of customers connected to each main extension

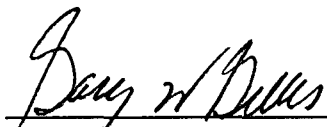
8. Within 20 days of the date of this Order, Northern Kentucky shall file its revised tariff sheets reflecting the approved revisions.

Done at Frankfort, Kentucky, this 4th day of September, 1998.

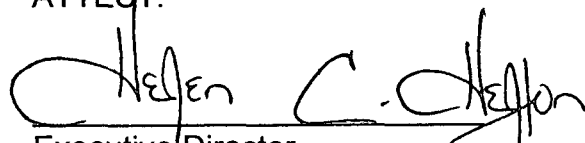
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director